

Department of Veterans Affairs

§ 3.458

paid to the parent upon receipt of a claim.

[26 FR 7266, Aug. 11, 1961, as amended at 27 FR 6974, July 24, 1962; 40 FR 21724, May 19, 1975; 44 FR 45940, Aug. 6, 1979]

CROSS REFERENCES: Institutional awards. See § 3.852. Disappearance of veteran. See § 3.656. Reduction because of hospitalization. See § 3.551. Penal institutions. See § 3.666. Incompetents; estate over \$1,500 and hospitalized. See § 3.557.

§ 3.453 Veterans compensation or service pension or retirement pay.

Rates of apportionment of disability compensation, service pension or retirement pay will be determined under § 3.451.

[26 FR 7266, Aug. 11, 1961]

§ 3.454 Veterans disability pension.

Apportionment of disability pension will be as follows:

(a) Where a veteran with spouse, or child is incompetent and without legal fiduciary and is maintained in an institution by the United States or any political subdivision thereof, \$25 monthly will be paid as an institutional award to the Director of a Department of Veterans Affairs medical center or chief officer of a non-Department of Veterans Affairs institution for the use of the veteran, and the balance will be paid to the dependent or dependents. If the veteran has no spouse, or child but has a dependent parent, apportionment will be in accordance with § 3.451.

(b)(1) Where the amount of section 306 pension payable to a married veteran under 38 U.S.C. 1521(b), as in effect on December 31, 1978, is reduced to \$50 monthly under § 3.551(c), an apportionment may be made to such veteran's spouse upon an affirmative showing of hardship. The amount of the apportionment generally will be the difference between \$50 and the total amount of pension payable on December 31, 1978.

(Authority: 38 U.S.C. 5503(a))

(2) Where the amount of improved pension payable to a married veteran under 38 U.S.C. 1521(b) is reduced to \$60 monthly under § 3.551(d) or (e)(2), an apportionment may be made to such veteran's spouse upon an affirmative showing of hardship. The amount of the apportionment generally will be

the difference between \$50 and the rate payable if pension was being paid under 38 U.S.C. 1521(c) including the additional amount payable under 38 U.S.C. 1521(e) if the veteran is so entitled.

(Authority: 38 U.S.C. 5503(a))

(3) Where the amount of improved pension payable to a married veteran under 38 U.S.C. 1521(b) is reduced to \$90 monthly under § 3.551(e)(1) an apportionment may be made to such veteran's spouse upon an affirmative showing of hardship. The amount of the apportionment generally will be the difference between \$90 and the rate payable if pension was being paid under 38 U.S.C. 1521(c) including the additional amount payable under 38 U.S.C. 1521(e) if the veteran is so entitled.

(Authority: 38 U.S.C. 5503(a))

(c) Where section 306 pension for an incompetent veteran is subject both to reduction under § 3.551(c), and to discontinuance under § 3.557(b) because of hospitalization by the U.S. Government or any political subdivision, the rate authorized for a parent or parents will not exceed \$50 monthly.

(Authority: Pub. L. 86-146, 73 Stat. 297; Pub. L. 86-211, 73 Stat. 432; Pub. L. 93-177, 87 Stat. 694; Pub. L. 95-588, 92 Stat. 2497)

(d) Where improved pension for an incompetent veteran is subject both to reduction under § 3.551(d) or (e)(2), and to discontinuance under § 3.557(b) because of hospitalization by the U.S. Government or any political subdivision, the rate authorized for a parent or parents will not exceed \$60 monthly if reduction is under § 3.551(d) or (e)(2), or \$90 monthly if reduction is under § 3.551(e)(1).

(Authority: 38 U.S.C. 5503(a), (b))

[40 FR 36329, Aug. 20, 1975, as amended at 44 FR 45940, Aug. 6, 1979; 56 FR 65850, 65851, Dec. 19, 1991; 57 FR 7847, Mar. 4, 1992]

§ 3.458 Veteran's benefits not apportionable.

Veteran's benefits will not be apportioned:

(a) Where the total benefit payable to the disabled person does not permit payment of a reasonable amount to any apportionnee.